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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,804	02/05/2004	Mark A. Wagner	29488/39975	5215

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EXAMINER

MAGUIRE, LINDSAY M

ART UNIT	PAPER NUMBER
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3692

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/772,804

Applicant(s)

WAGNER ET AL.

Examiner

Lindsay M. Maguire

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 November 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Final Office action is in response to the application filed on February 5, 2004, the response to the Restriction/Election requirement filed on May 2, 2006, and the amendments filed on November 22, 2006.

Drawings

The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

Specifically, it is not readily apparent to one of ordinary skill in the art the specific differences between reference numbers "20", "28a", "20a", and "32". While the specification does set forth a different element for each of the aforementioned reference numbers, Figure 2 does not provide adequate detail to be able to determine the exact distinctions of each individual reference number.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sleeve, element "32" in claims 6 and 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It is noted that reference number "32" is present in Figure 2, however there is not enough detail in the Figure so that one of ordinary skill in

Art Unit: 3692

the art would be able to ascertain what exactly is being referenced (see the detailed objection of Incomplete drawings above for a broader explanation).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Abstract

Applicant is reminded of the proper language and format for an abstract of the disclosure.

Art Unit: 3692

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc. Additionally, the word "comprise" should also be avoided.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,540,093 (Shumway '093) in view of U.S. Pat. No. 2,255,744 (Loeb et al. '744).

Shumway '093 discloses a support structure (10) comprising a pair of generally vertical frame members (12) disposed in spaced relation; a mounting structure (30) comprising at least one hanger (30) integrally associated with the support structure (Figure 1), which comprises a sleeve (34); and a presentation structure (60, 68), that includes at least one product display shelf (68), and extends between and is operatively associated with a pair of spaced generally vertical frame members of the support structure.

It is noted that although Shumway '093 shows "Window Shelf System", Shumway '093 is considered to be able to function as a "Store lead-in fixture for a product dump table" as called for in the instant claims. Further, the recitations "for a product dump table...cavity" in lines 1-3 of claim 1, "to be placed in confronting relation...table" in lines 4-5 of claim 1, "to be placed in operative association...table" in lines 6-7 of claim 1, "to be placed in contact with...table" in line 3 of claim 2, etc. are intended use recitations (It is noted that these are merely a few of the intended use recitations that are within the claims. It is recommended that applicant carefully review each claim for further instances of intended use). While Shumway '093 does not explicitly show the apparatus in these configurations, a reference needs only be capable of being in these configurations in order to "read on" the claim language. In this case, the "Window shelf system" could be attached to a product dump table for increased versatility and usefulness of the apparatus.

Shumway '093 discloses the device substantially as claimed, as advanced above, with the exception of requiring: (a) that the support structure further includes a generally horizontal frame member extending between and being integrally associated with each of the spaced generally vertical frame members (claims 3, lines 1-3; claim 21, lines 7-8); (b) each of the generally vertical frame members has a top end and a bottom end and the generally horizontal frame member extends between and is integrally associated with the top ends (claim 4, lines 1-3); (c) the sleeve is integrally associated with a generally horizontal frame member extending between and integrally associated with a pair of generally vertical frame members (claim 7, lines 1-3); (d) a product dump table having a side wall terminating in a top edge adjacent a product receiving cavity (claim 1, lines 3-4); and (e) a product dump table being generally rectangular and having a continuous side wall defined by four generally perpendicular side wall portions terminating in a continuous top edge adjacent a rectangular product receiving cavity (claim 21, lines 2-6).

With respect to (a) – (c), Shumway '093 discloses a pair of generally vertical frame members (12), each having a top and bottom, and a sleeve member (34); it would have been obvious to one of ordinary skill in the art at the time the invention was made, (i.e. the examiner is taking official notice), to include a generally horizontal frame member extending between and being integrally associated with each of the generally vertical frame members for such a basic reason as to increase the overall strength and stability of the device.

Art Unit: 3692

It is additionally noted, that applicant's failure to respond to the examiners use of official notice, is taken as an admission of known prior art.

Regarding (d) and (e), Loeb et al. '744 disclose a product dump table having a side wall (22) terminating in a top edge (70) adjacent a product receiving cavity (68), the product dump table being generally rectangular (see Figure 1) and having a continuous side wall defined by four generally perpendicular side wall portions (all 22). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Shumway '093, in view of the teachings of Loeb et al. '744, to include a product dump table for the basic reason as increasing the overall use of the display merchandising rack so that all sides of the structure would be in use.

Response to Arguments

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Maguire whose telephone number is 571-272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 3692

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lindsay M. Maguire
1/18/07


James Kramer

1/22/07